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Crime prevention and criminal justice

Report of the Third Committee

Rapporteur: Mr. Hassan Kassem **Najem** (Lebanon)

I. Introduction

1. At its 3rd plenary meeting, on 15 September 1998, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-third session the item entitled "Crime prevention and criminal justice" and to allocate it to the Third Committee.

2. The Third Committee considered the item jointly with item 102 at its 6th to 11th, 15th and 22nd meetings, on 8, 9, 12, 13, 16 and 22 October 1998. An account of the Committee's discussion is contained in the relevant summary records (A/C.3/53/SR. 6-11, 15 and 22).

3. For its consideration of the item, the Committee had before it the following documents:

(a) Relevant sections of the report of the Economic and Social Council for 1998 (A/53/3);[1]

(b) Report of the Secretary-General concerning the strengthening of the United Nations Crime Prevention and Criminal Justice Programme and on preparations for the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (A/53/380);

(c) Report of the Secretary-General on the United Nations African Institute for the Prevention of Crime and the Treatment of Offenders (A/53/381);

(d) Letter dated 10 September 1998 from the Permanent Representatives of the Russian Federation and the United States of America to the United Nations addressed to the Secretary-General (A/53/371-S/1998/848);

[1] *Official Records of the General Assembly, Fifty-third Session, Supplement No. 3* (A/53/3).

98-33806 (E) 111198

(e) Letter dated 16 September 1998 from the Permanent Representative of the Federated States of Micronesia to the United Nations addressed to the Secretary-General, transmitting the communiqué of the twenty-ninth South Pacific Forum, held at Palikir, Pohnpei, Federated States of Micronesia, on 24 and 25 August 1998 (A/53/416).

4. At the 6th meeting, on 8 October, the Under-Secretary-General, Executive Director of the Office for Drug Control and Crime Prevention, made an introductory statement (see A/C.3/53/6).

II. Consideration of proposals

A. Draft resolution A/C.3/53/L.2

5. By its resolution 1998/13, the Economic and Social Council recommended to the General Assembly the adoption of a draft resolution entitled "Preparations for the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders". The draft resolution was reproduced in document A/C.3/53/L.2.

6. At its 15th meeting, on 16 October, the Committee adopted draft resolution A/C.3/53/L.2 without a vote (see para. 18, draft resolution I).

B. Draft resolution A/C.3/53/L.3

7. By its resolution 1998/14, the Economic and Social Council recommended to the General Assembly the adoption of a draft resolution entitled "Transnational organized crime". The draft resolution was reproduced in document A/C.3/53/L.3.

8. At its 15th meeting, on 16 October, the Committee adopted draft resolution A/C.3/53/L.3 without a vote (see para. 18, draft resolution II).

C. Draft resolution A/C.3/53/L.4

9. By its resolution 1998/15, the Economic and Social Council recommended to the General Assembly the adoption of a draft resolution entitled "Mutual assistance and international cooperation in criminal matters". The draft resolution was reproduced in document A/C.3/53/L.4.

10. At its 15th meeting, on 16 October, the Committee adopted draft resolution A/C.3/53/L.4 without a vote (see para. 18, draft resolution III).

D. Draft resolution A/C.3/53/L.8

11. At the 15th meeting, on 16 October, the representative of *Nigeria*, on behalf of the Group of African States, introduced a draft resolution entitled "United Nations African Institute for the Prevention of Crime and the Treatment of Offenders" (A/C.3/53/L.8).

12. At the 22nd meeting, on 22 October, the representative of Nigeria, on behalf of the sponsors, orally revised the draft resolution by deleting the words "and, in particular, to provide the necessary financial and technical support" at the end of operative paragraph 6.

13. At the same meeting, the Committee adopted draft resolution A/C.3/53/L.8, as orally revised, without a vote (see para. 18, draft resolution IV).

E. Draft resolution A/C.3/53/L.9

14. At the 15th meeting, on 16 October, the representative of Italy, on behalf of *Armenia, Australia, Austria, Belarus, Cameroon, Canada, Chile, Croatia, Cyprus, France, Georgia, Germany, Greece, Guatemala, Iceland, Ireland, Israel, Italy, Japan, Kazakhstan, Kyrgyzstan, Lesotho, Lithuania, Malta, Micronesia (Federated States of),* the *Philippines, Portugal,* the *Republic of Moldova, Romania, the Russian Federation, San Marino, Slovakia, Slovenia, South Africa, Spain, Sweden, the former Yugoslav Republic of Macedonia, Turkey, Turkmenistan, Ukraine and Uzbekistan*, introduced a draft resolution entitled, "Strengthening the United Nations Crime Prevention and Criminal Justice Programme, in particular its technical cooperation capacity" (A/C.3/53/L.9). Subsequently, *Antigua and Barbuda, Argentina*, the *Bahamas, Barbados, Benin, Bosnia and Herzegovina, Botswana, Colombia*, the *Congo, Côte d'Ivoire, Egypt, Equatorial Guinea, Ethiopia, Fiji, Guyana, Jamaica, Liberia, Mongolia, Panama, Poland, Solomon Islands, Togo and Trinidad and Tobago* joined in sponsoring the draft resolution.

15. At the same meeting, the representative of Italy, on behalf of the sponsors, orally revised the draft resolution as follows:

(a) In operative paragraph 7, the words "*Expresses its appreciation* to the civil society organizations, including non-governmental organizations," were replaced by the words "*Expresses its appreciation* to non-governmental organizations and other relevant sectors of civil society";

(b) In operative paragraph 13, the words "drafting of international instruments" were replaced by the words "drafting of the main text of the convention, as well as of international instruments".

16. At the 22nd meeting, on 22 October, the representative of Italy, on behalf of the sponsors, further orally revised the draft resolution by inserting, in operative paragraph 13, the words ", as appropriate," between the words "as well as" and the words "of international instruments".

17. At the same meeting, the Committee adopted draft resolution A/C.3/53/L.9, as orally revised, without a vote (see para. 18, draft resolution V).

III. Recommendations of the Third Committee

18. The Third Committee recommends to the General Assembly the adoption of the following draft resolutions:

Draft resolution I

Preparations for the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

The General Assembly,

Recalling its resolution 52/91 of 12 December 1997 on preparations for the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Considering that, pursuant to its resolutions 415 (V) of 1 December 1950 and 46/152 of 18 December 1991, the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders is to be convened in the year 2000,

Recalling Economic and Social Council resolution 1993/32 of 27 July 1993 and the draft rules of procedure for United Nations congresses on the prevention of crime and the treatment of offenders annexed to that resolution,

Emphasizing the role of the Tenth Congress as a consultative body of the United Nations Crime Prevention and Criminal Justice Programme, in accordance with paragraph 29 of the statement of principles and programme of action of the Programme annexed to General Assembly resolution 46/152,

Aware of the important work to be accomplished by the regional preparatory meetings for the Tenth Congress,

Stressing the importance of undertaking all the preparatory activities for the Tenth Congress in a timely and concerted manner,

Having considered the report of the Secretary-General on the progress made in the preparations for the Tenth Congress,[2]

1. *Accepts with gratitude* the invitation of the Government of Austria to host the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders at Vienna;

2. *Decides* to hold the Tenth Congress from 10 to 17 April 2000, with pre-congress consultations to be held on 9 April 2000;

3. *Approves* the following provisional agenda for the Tenth Congress, finalized by the Commission on Crime Prevention and Criminal Justice at its seventh session:

1. Opening of the Congress.
2. Organizational matters.
3. Promoting the rule of law and strengthening the criminal justice system.
4. International cooperation in combating transnational crime: new challenges in the twenty-first century.
5. Effective crime prevention: keeping pace with new developments.
6. Offenders and victims: accountability and fairness in the justice process.
7. Adoption of the report of the Congress.

4. *Notes* that the Commission, at its seventh session, reviewed a discussion guide for the regional preparatory meetings for the Tenth Congress;

[2] E/CN.15/1998/2.

5. *Endorses* the programme of work for the Tenth Congress, including the holding of four practically oriented technical workshops on the following subjects:

(*a*) Combating corruption;

(*b*) Crimes related to the computer network;

(*c*) Community involvement in crime prevention;

(*d*) Women in the criminal justice system;

6. *Decides* that the theme of the Tenth Congress should be "Crime and justice: meeting the challenges of the twenty-first century";

7. *Emphasizes* the importance of the workshops and invites Member States, non-governmental organizations and other relevant entities to support financially, organizationally and technically the preparations for the workshops, including the preparation and circulation of relevant background material;

8. *Welcomes* the offer of the institutes of the United Nations Crime Prevention and Criminal Justice Programme network to assist in the preparations for the workshops;

9. *Invites* donor countries to cooperate with developing countries to ensure their full participation in the workshops;

10. *Encourages* Governments to undertake preparations for the Tenth Congress at an early stage by all appropriate means, including, where appropriate, the establishment of national preparatory committees, with a view to contributing to a focused and productive discussion on the topics and to actively participating in the organization and follow-up of the workshops;

11. *Decides*, without prejudice to the current preparatory arrangements for the Tenth Congress, to streamline and minimize the costs of the preparation and servicing of the regional preparatory meetings by shortening their duration and limiting their documentation, by holding them in conjunction with other regional meetings or, if they are not absolutely necessary, by not convening them at all;

12. *Also decides* that the savings achieved should be used in servicing meetings and supporting the priority programme activities of the Centre for International Crime Prevention of the Office for Drug Control and Crime Prevention of the Secretariat;

13. *Requests* the Secretary-General:

(*a*) To take the necessary logistic steps, in collaboration with Member States and the institutes of the United Nations Crime Prevention and Criminal Justice Programme network, to mobilize the participation of interested partners in the preparations for the four workshops;

(*b*) To ensure, in collaboration with Member States, a wide and effective programme of public information related to the preparations for the Tenth Congress, to the Congress itself and to the implementation of its conclusions;

14. *Requests* the Commission, as the preparatory body for the United Nations congresses on the prevention of crime and the treatment of offenders, to accord high priority at its eighth session to the finalization in good time of all the necessary organizational and substantive arrangements;

15. *Also requests* the Commission at its eighth session to prepare a draft declaration for submission to the Tenth Congress, taking into account the results of the regional preparatory meetings;

16. *Urges* the regional preparatory meetings to examine the substantive items of the agenda and workshop topics of the Tenth Congress and to make action-oriented recommendations to serve as a basis for the draft declaration to be considered by the Commission at its eighth session;

17. *Requests* the Tenth Congress to elaborate a single declaration containing its recommendations on the various substantive items of its agenda with a view to submitting that declaration to the Commission for consideration at its ninth session;

18. *Decides* that the Commission, at its tenth session, should undertake a review of the role, function, periodicity and duration of the United Nations congresses on the prevention of crime and the treatment of offenders, including the issue of regional preparatory meetings;

19. *Requests* the Secretary-General to ensure proper follow-up of the present resolution and to report thereon to the General Assembly through the Commission at its eighth session.

Draft resolution II

Transnational organized crime

The General Assembly,

Recalling its resolutions 49/159 of 23 December 1994 and 52/85 of 12 December 1997,

Taking note of the Buenos Aires Declaration on Prevention and Control of Organized Transnational Crime, adopted by the Regional Ministerial Workshop on Follow-up to the Naples Political Declaration and Global Action Plan against Organized Transnational Crime, held at Buenos Aires from 27 to 30 November 1995,[3] the Dakar Declaration on the Prevention and Control of Organized Transnational Crime and Corruption, adopted by the African Regional Ministerial Workshop on Action against Organized Transnational Crime and Corruption, held at Dakar from 21 to 23 July 1997,[4] and the Manila Declaration on the Prevention and Control of Transnational Crime, adopted by the Asian Regional Ministerial Workshop on Action against Organized Transnational Crime and Corruption, held at Manila from 23 to 25 March 1998,[5]

Convinced of the importance of continuous action by Member States aimed at the full implementation of the Naples Political Declaration and Global Action Plan against Organized Transnational Crime, adopted by the World Ministerial Conference on Organized Transnational Crime, held at Naples, Italy, from 21 to 23 November 1994,[6]

Also convinced of the need to proceed expeditiously with the elaboration of a convention against transnational organized crime,

Mindful of the fact that, pursuant to Economic and Social Council decision 1997/232 of 21 July 1997, the theme for the seventh session of the Commission on Crime Prevention and Criminal Justice was "Organized transnational crime",

1. *Takes note* of the report of the Secretary-General on the implementation of the Naples Political Declaration and Global Action Plan against Organized Transnational Crime:

[3] E/CN.15/1996/2/Add.1, annex.

[4] E/CN.15/1998/6/Add.1, chap. I.

[5] E/CN.15/1998/6/Add.2, chap. I.

[6] A/49/748, annex, chap. I, sect. A.

question of the elaboration of an international convention against organized transnational crime, and other possible international instruments;[7]

2. *Expresses its appreciation* to the Government of Poland for acting as host to the meeting of the inter-sessional open-ended intergovernmental group of experts established pursuant to General Assembly resolution 52/85, on the elaboration of a preliminary draft of a possible comprehensive international convention against organized transnational crime, held at Warsaw from 2 to 6 February 1998;

3. *Welcomes with appreciation* the report of the meeting of the group of experts;[8]

4. *Urges* Member States to continue making every possible effort to fully implement the Naples Political Declaration and Global Action Plan by taking the most appropriate legislative, regulatory and administrative measures, including those aimed at prevention;

5. *Requests* the Secretary-General to continue his work on the development and maintenance of the central repository established pursuant to Economic and Social Council resolution 1996/27 of 24 July 1996;

6. *Urges* Member States to respond promptly to the requests of the Secretary-General for data, and other information and material, including legislation and pertinent regulatory texts, by submitting such information and material in accordance with the methodological points and categorization of data set forth in annex II to Economic and Social Council resolution 1997/22 of 21 July 1997, in order to facilitate the work of the Centre for International Crime Prevention of the Office for Drug Control and Crime Prevention of the Secretariat;

7. *Requests* the Secretary-General to continue his work on the elaboration of training manuals for law enforcement and judicial personnel on action against transnational organized crime;

8. *Also requests* the Secretary-General to intensify his efforts to identify and allocate within the overall budget of the United Nations adequate resources for strengthening the capacity of the Centre for International Crime Prevention in order to assist Member States in the full implementation of the Naples Political Declaration and Global Action Plan;

9. *Further requests* the Secretary-General to continue providing Member States with technical cooperation, advisory services and other forms of assistance upon request in the field of crime prevention and criminal justice, including in the area of prevention and control of transnational organized crime;

10. *Decides* to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration, as appropriate, of international instruments addressing trafficking in women and children, combating the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, and illegal trafficking in and transporting of migrants, including by sea;

11. *Welcomes with appreciation* the offer of the Government of Argentina to host an informal preparatory meeting of the ad hoc committee at Buenos Aires from 31 August to 4 September 1998, so as to ensure the continuation without interruption of work on the elaboration of the convention;

[7] E/CN.15/1998/6.

[8] E/CN.15/1998/5.

12. *Requests* the Secretary-General to convene a meeting of the ad hoc committee at Vienna from 18 to 29 January 1999 and to consider the possibility of convening a second meeting before the eighth session of the Commission on Crime Prevention and Criminal Justice, if this proves necessary to advance the process;

13. *Decides* to accept the recommendation of the Commission to elect Luigi Lauriola (Italy) as the Chairman of the ad hoc committee;

14. *Requests* the ad hoc committee, in carrying out its work pursuant to paragraph 10 above, to take into account the report of the inter-sessional open-ended intergovernmental group of experts established pursuant to General Assembly resolution 52/85,[8] the report of the working group on the implementation of the Naples Political Declaration and Global Action Plan against Organized Transnational Crime,[9] including its appendices, and Economic and Social Council resolutions 1998/18, 1998/19 and 1998/20;

15. *Requests* the Secretary-General to provide the necessary resources to convene, support and follow up the work of the ad hoc committee;

16. *Invites* donor countries to cooperate with developing countries to ensure their full participation in the work of the ad hoc committee;

17. *Requests* the ad hoc committee to submit a progress report to the Commission at its eighth session and to hold a meeting during that session for at least three working days.

Draft resolution III

Mutual assistance and international cooperation in criminal matters

The General Assembly,

Bearing in mind that the United Nations model treaties on international cooperation in criminal matters provide important tools for the development of international cooperation,

Convinced that existing arrangements governing international cooperation in criminal justice must be regularly reviewed and revised to ensure that the specific contemporary problems of fighting crime are effectively addressed,

Bearing in mind that developing countries and countries with economies in transition may lack the resources for developing and implementing treaties on mutual assistance in criminal matters,

Convinced that complementing and supplementing the United Nations model treaties will contribute to increased efficiency in combating criminality,

Recalling its resolution 45/117 of 14 December 1990, in which it adopted the Model Treaty on Mutual Assistance in Criminal Matters, annexed to that resolution,

Also recalling its resolution 52/88 of 12 December 1997,

Commending the work of the Intergovernmental Expert Group Meeting on Mutual Assistance in Criminal Matters, held at Arlington, Virginia, United States of America, from 23 to 26 February 1998, to implement in part General Assembly resolution 52/88 by proposing complementary provisions for the Model Treaty elements for model legislation on mutual assistance in criminal matters, and training and technical assistance for national officials engaged in that field,

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[9] *Official Records of the Economic and Social Council, 1998, Supplement No. 10* (E/1998/30 and Corr.1), annex III.

Also commending the Government of the United States of America for hosting the Intergovernmental Expert Group Meeting, for its substantial contribution to the organization of the Intergovernmental Expert Group Meeting and for the support given by the National Institute of Justice of the United States Department of Justice through the programme of the United Nations On-line Crime and Justice Clearing House,

1. *Welcomes* the report of the Intergovernmental Expert Group Meeting on Mutual Assistance in Criminal Matters, held at Arlington, Virginia, United States of America, from 23 to 26 February 1998;[10]

2. *Decides* that the Model Treaty on Mutual Assistance in Criminal Matters should be complemented by the provisions set forth in annex I to the present resolution;

3. *Encourages* Member States, within the framework of national legal systems, to enact effective legislation on mutual assistance, and calls upon the international community to give all possible assistance in order to contribute to the achievement of that goal;

4. *Requests* the Secretary-General to elaborate, in consultation with Member States, for submission to the Commission on Crime Prevention and Criminal Justice, model legislation on mutual assistance in criminal matters, in order to enhance effective cooperation between States, taking into account the elements recommended by the Expert Group on Mutual Assistance in Criminal Matters for inclusion in such model legislation, which are set forth in annex II to the present resolution;

5. *Invites* Member States to take into account the Model Treaty in negotiating treaties at the bilateral, regional or multilateral level, as appropriate;

6. *Also invites* Member States to consider, where applicable and within the framework of national legal systems, the following measures in the context of the application of treaties on mutual assistance in criminal matters or other arrangements for such mutual assistance:

(*a*) Establishing or designating a national central authority or authorities to process requests for assistance;

(*b*) Undertaking regular reviews of their treaties on mutual assistance in criminal matters or other arrangements and implementing legislation, as well as taking other necessary measures for the purpose of rendering such arrangements and legislation more efficient and effective in combating established and emerging forms of crime;

(*c*) Concluding asset-sharing arrangements as a means of enabling forfeited proceeds of crime to be used to strengthen the capacity of national criminal justice systems and contributing a part of such proceeds to programmes such as those aimed at enhancing national capacities for fighting crime in developing countries and in countries with economies in transition, paying due consideration to the rights of bona fide third parties;

(*d*) Making use of videoconferencing and other modern means of communication for, *inter alia*, transmission of requests, consultation between central authorities, taking of testimony and statements, and training;

7. *Encourages* Member States to promote, on a bilateral, regional or worldwide basis, measures to improve the skills of officials in order to strengthen mutual assistance mechanisms, such as specialized training and, whenever possible, secondment and

[10] E/CN.15/1998/7, annex.

exchanges of relevant personnel, and to consider the use of videoconferencing and other modern means of communication for training purposes;

8. *Reiterates* its invitation to Member States to provide to the Secretary-General copies of relevant laws and information on practices related to international cooperation in criminal matters and, in particular, to mutual assistance in criminal matters, as well as updated information on central authorities designated to deal with requests;

9. *Requests* the Secretary-General:

(*a*) To regularly update and disseminate the information mentioned in paragraph 8 above and, in particular, to prepare, for use by Member States, a directory of central authorities responsible for mutual legal assistance, drawing on the information already collected during the Intergovernmental Expert Group Meeting;

(*b*) To continue to provide advisory and technical cooperation services to Member States requesting assistance in drafting and implementing appropriate national legislation, and developing and implementing bilateral, subregional, regional or international treaties on mutual assistance in criminal matters, drawing on the expertise of Member States as appropriate;

(*c*) To provide, in cooperation with interested Member States and relevant intergovernmental organizations, training on mutual assistance law and practice for personnel in appropriate governmental agencies and for central authorities of requesting Member States in an effort to develop the necessary skills and to improve communication and cooperation aimed at enhancing the effectiveness of mutual assistance mechanisms;

10. *Requests* the Secretary-General, in cooperation with interested Member States, relevant intergovernmental organizations and the institutes constituting the United Nations Crime Prevention and Criminal Justice Programme network, to develop appropriate training materials for use in providing to requesting Member States the technical assistance referred to above;

11. *Commends* the International Institute of Higher Studies in Criminal Sciences of Siracusa, Italy, for its offer to organize and host up to two training seminars for mutual assistance officials, and invites interested Member States to provide voluntary contributions to offset the travel costs of officials from developing countries and from countries with economies in transition and to make substantive contributions to the seminars;

12. *Urges* Member States and funding agencies to assist the Secretary-General in implementing the present resolution through voluntary contributions to the United Nations Crime Prevention and Criminal Justice Fund;

13. *Requests* the Secretary-General to ensure the full implementation of the provisions of the present resolution.

Annex I

Complementary provisions for the Model Treaty on Mutual Assistance in Criminal Matters

Article 1

1. In paragraph 3 (*b*), replace the words "Optional Protocol to" with the words "article 18 of".

Article 3

2. In the title of article 3 replace the word "competent" with the word "central".

3. Insert the word "central" before the word "authority".

4. Add the following footnote to the end of article 3:

> "Countries may wish to consider providing for direct communications between central authorities and for the central authorities to play an active role in ensuring the speedy execution of requests, controlling quality and setting priorities. Countries may also wish to agree that the central authorities are not the exclusive channel for assistance between the Parties and that the direct exchange of information should be encouraged to the extent permitted by domestic law or arrangements."

Article 4

5. In the footnote to paragraph 1, replace the last sentence with the following:

> "Countries may wish, where feasible, to render assistance, even if the act on which the request is based is not an offence in the requested State (absence of dual criminality). Countries may also consider restricting the requirement of dual criminality to certain types of assistance, such as search and seizure."

6. In paragraph 1 (*d*) delete the words "that is subject to investigation or prosecution in the requested State or".

7. Add the following footnote to the end of paragraph 4:

> "States should consult in accordance with article 20 before assistance is refused or postponed."

Article 5

8. Add the following footnote to the end of paragraph 2:

> "Countries may wish to provide that the request may be made by modern means of communication, including in particularly urgent cases verbal requests that are confirmed in writing forthwith."

Article 6

9. Add the following footnote to the end of article 6:

> "The requested State should secure such orders, including judicial orders, as may be necessary for the execution of the request. Countries may also wish to agree, in accordance with national legislation, to represent or act on behalf or for the benefit of the requesting State in legal proceedings necessary to secure such orders."

Article 8

10. Add the following words to the end of the footnote to article 8:

> ", or restrict use of evidence only where the requested State makes an express request to that effect."

11. Add the following words to the beginning of article 8: "Unless otherwise agreed,".

Article 11

12. Add the following footnote to the end of paragraph 2:

"Wherever possible and consistent with the fundamental principles of domestic law, the Parties should permit testimony, statements or other forms of assistance to be given via video link or other modern means of communication and should ensure that perjury committed under such circumstances is a criminal offence."

Article 12

13. In the English version of paragraph 1, replace the word "required" with the words "called upon".

14. Add the following footnote to the end of the article:

"Some countries may wish to provide that a witness who is testifying in the requesting State may not refuse to testify on the basis of a privilege applicable in the requested State."

New article 18

15. Insert as new article 18, entitled "Proceeds of crime", paragraphs 1 to 6 of the Optional Protocol to the Model Treaty on Mutual Assistance in Criminal Matters concerning the proceeds of crime, and delete the remaining text of the Optional Protocol, including the footnotes.

16. Replace the word "Protocol" with the word "article" throughout the new article.

17. Add the following footnote to the end of the title of the new article:

"Assistance in forfeiting the proceeds of crime has emerged as an important instrument in international cooperation. Provisions similar to those outlined in the present article appear in many bilateral assistance treaties. Further details can be provided in bilateral arrangements. One matter that could be considered is the need for other provisions dealing with issues related to bank secrecy. Provisions could be made for the equitable sharing of the proceeds of crime between the Contracting States or for consideration of the disposal of the proceeds on a case-by-case basis."

18. Add the following footnote to the end of paragraph 5:

"The Parties might consider widening the scope of the present article by the inclusion of references to victims' restitution and the recovery of fines imposed as a sentence in a criminal prosecution."

Articles 18–21

19. Renumber the former article 18 (it should become article 19) and renumber all subsequent articles accordingly.

Annex II

Elements recommended for inclusion in model legislation on mutual assistance in criminal matters

A. General recommendation

1. Model legislation on mutual assistance in criminal matters should reflect in statutory terms the general provisions of the Model Treaty on Mutual Assistance in Criminal Matters, together with the recommendations contained in annex I to the present resolution. To the extent possible, it should provide different options for States with different legal systems.

Where relevant, it should take into account provisions of the model bill on mutual assistance in criminal matters developed in 1998 by the United Nations International Drug Control Programme.

B. Scope

2. The model legislation should provide a full range of flexible options for assuming mutual assistance obligations. When there is a treaty on mutual assistance in criminal matters, the terms of that treaty should govern the relationship. The legislation should also permit mutual assistance to be provided without a treaty, with or without reciprocity.

C. Jurisdiction

3. The model legislation could contain provisions to provide for jurisdiction, *inter alia*:

(a) To issue judicial orders necessary for executing mutual assistance requests;

(b) To authorize the requested State to act on behalf or for the benefit of, or to represent the interests of, the requesting State in legal proceedings necessary for executing mutual assistance requests;

(c) To punish perjury committed during mutual assistance, in particular perjury committed during videoconferencing.

D. Procedure

4. The model legislation should include options for procedures dealing with both incoming and outgoing requests for assistance in criminal matters. Such procedures should be in conformity with, whenever applicable, international and regional human rights instruments. Where no treaty provision is applicable, the legislation could also contain provisions on specific forms of mutual assistance, including testimony and other forms of cooperation carried out via video link, cooperation in asset seizure and forfeiture, and temporary transfer of witnesses in custody.

5. The model legislation could provide for the establishment of a central authority or authorities for the receipt and transmission of requests and the provision of advice and assistance to relevant authorities. The legislation could also specify the extent of the central authority's powers.

E. Communications

6. Where no treaty provision is applicable, the legislation should set forth the means of communicating between the requesting State and the requested State, allowing for use of the most modern forms of communication.

Draft resolution IV

United Nations African Institute for the Prevention of Crime and the Treatment of Offenders

The General Assembly,

Recalling its resolution 52/89 of 12 December 1997 and all other relevant resolutions,

Taking note of the report of the Secretary-General[11] and further acknowledging the assistance rendered to the United Nations African Institute for the Prevention of Crime and the Treatment of Offenders,

Bearing in mind the urgent need to establish effective crime prevention strategies for Africa, as well as the importance of law enforcement agencies and the judiciary at the regional and subregional levels,

1. *Commends* the United Nations African Institute for the Prevention of Crime and the Treatment of Offenders for its efforts to promote and coordinate regional technical cooperation activities related to crime prevention and criminal justice systems in Africa;

2. *Reiterates* the need to further strengthen the Institute's capacity to support national mechanisms for crime prevention and criminal justice in African countries;

3. *Urges* the States members of the Institute to make every possible effort to meet their obligations to the Institute;

4. *Appeals* to all Member States and non-governmental organizations to adopt concrete practical measures to support the Institute in the development of the requisite capacity and implement its programmes and activities aimed at strengthening crime prevention and criminal justice systems in Africa;

5. *Requests* the Secretary-General to intensify efforts to mobilize all relevant entities of the United Nations system to provide the necessary financial and technical support to the Institute to enable it to fulfil its mandate;

6. *Calls upon* the United Nations Crime Prevention and Criminal Justice Programme to work closely with the Institute;

7. *Also requests* the Secretary-General to enhance regional cooperation, coordination and collaboration in the fight against crime, especially in its transnational dimension, which could not be adequately dealt with by national action alone;

8. *Further requests* the Secretary-General to make concrete proposals to strengthen the programmes and activities of the Institute and to report to the General Assembly at its fifty-fourth session on the implementation of the present resolution.

Draft resolution V

Strengthening the United Nations Crime Prevention and Criminal Justice Programme, in particular its technical cooperation capacity

The General Assembly,

Recalling its resolution 46/152 of 18 December 1991 on the creation of an effective United Nations crime prevention and criminal justice programme, in which it approved the statement of principles and programme of action annexed to the resolution,

Bearing in mind the goals of the United Nations in the field of crime prevention and criminal justice, specifically the reduction of criminality, more efficient and effective law enforcement and administration of justice, respect for human rights and promotion of the highest standards of fairness, humanity and professional conduct,

[11] A/53/381.

Convinced of the desirability of closer coordination and cooperation among States in combating crime including drug-related crimes, such as money-laundering, illicit arms trade and terrorist crimes, bearing in mind the role that could be played by both the United Nations and regional organizations in this respect,

Recognizing the urgent need to increase technical cooperation activities in order to assist countries, in particular developing countries and countries with economies in transition, with their efforts in translating United Nations policy guidelines into practice,

Recalling its relevant resolutions in which it requested the Secretary-General, as a matter of urgency, to provide the United Nations Crime Prevention and Criminal Justice Programme with sufficient resources for the full implementation of its mandate, in conformity with the high priority attached to the Programme,

1. *Takes note with appreciation* of the report of the Secretary-General on the progress made in the implementation of General Assembly resolution 52/90 of 12 December 1997;[12]

2. *Reaffirms* the importance of the United Nations Crime Prevention and Criminal Justice Programme and the crucial role it has to play in promoting effective action to strengthen international cooperation in crime prevention and criminal justice, in responding to the needs of the international community in the face of both national and transnational criminality and in assisting Member States in achieving the goals of preventing crime within and among States and improving the response to crime;

3. *Also reaffirms* the priority of the United Nations Crime Prevention and Criminal Justice Programme, in accordance with the relevant resolutions, and requests the Secretary-General to further strengthen the United Nations Crime Prevention and Criminal Justice Programme by providing it with the resources necessary for the full implementation of its mandates, including follow-up action to the Naples Political Declaration and Global Action Plan against Organized Transnational Crime[13] and to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;

4. *Further reaffirms* the high priority attached to technical cooperation and advisory services in the field of crime prevention and criminal justice, and stresses the need to continue to improve the operational activities of the United Nations Crime Prevention and Criminal Justice Programme, in particular in developing countries and countries with economies in transition, in order to meet the needs of Member States, at their request, for support in crime prevention and criminal justice;

5. *Encourages* the ongoing efforts of the Centre for International Crime Prevention of the Office for Drug Control and Crime Prevention of the Secretariat to obtain executing agency status with the United Nations Development Programme;

6. *Calls upon* States and United Nations funding agencies to make significant financial contributions for the operational activities of the United Nations Crime Prevention and Criminal Justice Programme, and encourages all States to make voluntary contributions for that purpose to the United Nations Crime Prevention and Criminal Justice Fund, taking into account the activities required for the implementation of the Naples Political Declaration and Global Action Plan against Organized Transnational Crime;

[12] A/53/380.

[13] A/49/748, annex, chap. I, sect. A.

7. *Expresses its appreciation* to non-governmental organizations and other relevant sectors of civil society for their support to the United Nations Crime Prevention and Criminal Justice Programme, and encourages them to increase such support;

8. *Calls upon* States to review funding policies for development assistance, so as to include crime prevention and criminal justice in such assistance;

9. *Calls upon* all relevant programmes, funds and organizations of the United Nations system, in particular the United Nations Development Programme, the World Bank and other international, regional and national funding agencies, to support technical operational activities in this field;

10. *Takes note with appreciation* of the contributions of the United Nations Crime Prevention and Criminal Justice Programme to United Nations peacekeeping and special missions, as well as its contributions to the follow-up to those missions, *inter alia*, through advisory services, and encourages the Secretary-General, as a way of strengthening the rule of law, to recommend the inclusion of the re-establishment and reform of judicial and criminal justice systems in peacekeeping operations;

11. *Requests* the Executive Director of the Office for Drug Control and Crime Prevention to continue to strengthen cooperation between the United Nations International Drug Control Programme and the Centre for International Crime Prevention, in particular in the areas of transnational organized crime and money-laundering;

12. *Requests* the Secretary-General to take all necessary measures to assist the Commission on Crime Prevention and Criminal Justice, as the principal policy-making body in this field, in performing its activities, including cooperation and coordination with other relevant bodies, such as the Commission on Narcotic Drugs, the Commission on Human Rights and the Commission on the Status of Women;

13. *Calls upon* the open-ended intergovernmental ad hoc committee of the Commission on Crime Prevention and Criminal Justice established for the purpose of elaborating a comprehensive international convention against transnational organized crime to devote attention to the drafting of the main text of the convention, as well as, as appropriate, of international instruments addressing trafficking in women and children, combating the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, and illegal trafficking in and transporting of migrants, including by sea;

14. *Welcomes* the efforts undertaken by the Commission on Crime Prevention and Criminal Justice to improve the strategic management of the United Nations Crime Prevention and Criminal Justice Programme and to exercise more vigorously its mandated function of resources mobilization, and calls upon the Commission to further strengthen its activities in this direction;

15. *Also welcomes* the decision of the Commission on Crime Prevention and Criminal Justice to mainstream a gender perspective into all its activities and its request to the Secretariat that a gender perspective be integrated into all activities of the Centre for International Crime Prevention;

16. *Requests* the Secretary-General to submit a report on the implementation of the present resolution to the General Assembly at its fifty-fourth session.